

LEGISLATION IMPACTING CHILD PROTECTION AND FOSTER CARE

House Bill 1453, known and cited as the "***Dominic James Memorial Foster Care Reform Act of 2004***" revised statutes related to child protection and foster care. While not an inclusive list, the following provides a summary of how this legislation directly impacted child protective and foster care services:

Homeless Child or Youth – Modifies the term “homeless child or youth” to include children and youth under age 21 who: • are sharing housing with others, living in motels, hotels, or emergency shelters, or who are awaiting foster care placement; • who have a primary nighttime residence that is not designed for regular sleeping accommodations; • are living in cars, public spaces, abandoned buildings, or similar settings; and are migratory.

Putative Father Registry – DHSS shall establish a Putative Father Registry. Removes John Doe clause and requires a search of the Missouri Putative Father Registry to determine if a man has filed or been registered with the registry. Any man who has engaged in sexual intercourse with a woman is deemed to be on notice that a child may be conceived and as a result is entitled to notice of an adoption proceeding.

Preponderance of Evidence – Changes the standard of proof for Child Abuse and Neglect (CA/N) Investigations received on or after August 28, 2004, from “*probable cause*” to “*preponderance of the evidence*”.

Voluntary Placement Agreement – Defines “voluntary placement agreement” as a written agreement between DSS and a parent of a child 17 years of age or younger solely in need of mental health treatment. It authorizes Department of Social Services to administer the placement and care of child while parent retains legal custody.

Performance Based Contracts – Requires the Children’s Division to strategically contract for the provision of performance based children’s services, throughout the continuum, except that state is the sole provider of CA/N hotline services, initial child abuse and neglect investigations, and initial family assessments.

Privatization – The division to enter into and implement contracts for child welfare services, beginning on or before July 1, 2005, and is subject to appropriations. All direct services for children and their families currently provided by the Division shall be contracted for on a competitive bid basis, except for services related to the child abuse and neglect hotline, the initial investigation and the initial family assessments.

Accreditation – This establishes the goal of obtaining accreditation for the division by the Council for Accreditation for Families and Children's Services within five years of the effective date of the section.

Reunification Requirements and Restrictions - Children who are taken into the custody of the state shall not be reunited with a parent or placed in a home when the parent or any person residing in the home has been convicted of certain felony offenses. If while providing services, staff determines or has reason to believe a criminal history would preclude reunification, staff must request parent to provide criminal history prior to requesting reunification to the court.

Diligent Search – Requires the division to conduct a “diligent search” for the biological parents of a child in the custody of the division when the parents’ identity or location is unknown.

Interviewing Child in School – The division may not meet with the child at any school or childcare facility where the abuse of the child is alleged to have occurred. If abuse occurred in school/child-care facility, arrangements need to be made to meet with the child in a different locale.

FSTM Invitees – Dictates who must be invited to family support team meetings, which include parents, legal counsel for the parents, foster parents, the legal guardian for the child, the Guardian Ad Litem, and CASA. Family members, (other than alleged perpetrator), or other community formal or informal service providers may be invited at the discretion of the family. The parents, legal counsel for the parent, legal guardian/custodian, and foster parents may request that other individuals, other than alleged perpetrators, be permitted to attend such meetings.

FSTM Follow Protective Custody Timeframe – Requires the division to arrange for a family support team meeting prior to, or within 24 hours following the protective custody hearing. The division shall arrange additional family support team meetings prior to taking any action relating to the placement of such child except in emergency and then the division may make a temporary placement and shall schedule a family support team meeting within 72 hours.

CA/N Record Access – Identifies persons who shall have access to investigation records contained at the central registry. Information may be given to a grand jury, juvenile officer, prosecuting attorney, law enforcement officer involved in the investigation of abuse or neglect, juvenile court or other court conducting abuse or neglect or child protective proceedings or *child custody proceedings*, and other federal, state and local government entities, or any other agent of such entity, with a need for such information in order to carry out its responsibilities under the law to protect children from abuse or neglect.

CA/N Record Retention – Reduces the amount of time the CD must keep an unsubstantiated report of child abuse made by a mandated reporter from ten to five years.

Emergency Placement Background Checks – Details emergency placement procedures of a child in a private home due to unexpected absence of the child's parents.

Foster/Adopt Parent Licensing – Requires CD to conduct a search for full orders of protection for anyone seeking a foster parent license, or any adult in the applicant's household.

Foster Parent Licensing Standards – Requires the CD to provide standards and training for prospective foster parents before they become licensed. The division shall provide performance-based criteria for licensed foster parents

Preference for Placement with Relatives – Requires placement with relatives if the court has determined that relative placement is not contrary to the best interests of the child. Court must make specific findings on the record detailing why placement with a relative is not in the best interests of the child. Specifies that the age of a relative may not be the only factor considered in determining whether to place the child with that relative. Requires the Children's Division to comply with the Federal Indian Child Welfare Act in placing Native American children.

Foster Care Placements During School Day – Except as otherwise provided in section 210.125, no child shall be removed from school for placement in foster care without a court order specifying that the child will be removed from school.

Home Schooling – Specifies that if the only basis for action is an alleged violation of the mandatory school attendance statute involving a child who alleges to be home schooled, the juvenile officer must contact the child's parents to verify that the child is being home schooled.

School Attendance – If placement results in the child attending a different school, the child's records shall be automatically transferred within two days of notification or upon request of the foster parents, GAL, or the volunteer advocate. When possible, the child shall be allowed to continue attending the school he or she attended prior to being taken into the custody of the Division. The division in consultation with the department of elementary and secondary education shall establish the necessary procedures to implement provisions.

Questioning/Interviewing Children in Custody – The questioning of a child in custody due to abuse or neglect shall cease if the child wishes a parent, guardian or attorney present during the questioning. Questioning shall not continue until such time the child does not object to talking about alleged abuse, unless the interviewer has reason to believe that the parent or guardian is acting to protect the alleged

perpetrator. Nothing shall prevent the asking of questions necessary for the care, treatment, or placement of the child. All video or audio recordings of meetings, interviews, or interrogations conducted by the state of a child in the state's custody are presumed admissible in proceedings involving the child, regardless of whether the recording was made before or after the child was taken into custody and such recordings were made prior to the adjudication hearing in the case and are inadmissible only upon a showing by clear and convincing evidence that the recording lacks sufficient indication of reliability.

Petition for Adoption – The petition for adoption shall include payment of a \$50 filing fee which shall be used to fund the putative father registry.

Non-Offending Parents – Requires a child be returned to the care of a non-offending parent legally entitled to physical custody of the child under certain circumstances including:

- parents have continually maintained joint domicile for a period of at least 6 months or maintain separate households;
- evidence indicates only one of the parents is the subject on an investigation and the non-offending parent does not have a history of criminal behavior or drug abuse within the past 5 years;
- non-offending parent request custody of the child and agrees to cooperate with court orders limiting contact.

Voluntary Placement Agreement – The legal custody of a child is retained by the parent(s) while out-of-home treatment and care is funded through the state.

Senate Bill 1003 established a comprehensive children's mental health service system also known as the **Children's Mental Health Reform Act**.

CD must determine by judicial review or family support team meeting, which child custody cases only need mental health services. Children in need of only mental health services may be returned to the family's custody.

The comprehensive children's mental health services system shall:

- Be child centered, family focused, strength-based, and family driven with the needs of the child and family dictating the types and mix of services provided, and shall include the families as full participants in all aspects of the planning and delivery of services;
- Provide community-based mental health services to children and their family in the context in which the children live and attend school;
- Respond in a culturally competent and responsive manner;
- Emphasize prevention, early identification, and intervention;
- Assure access to a continuum of services that:

- Educate the community about the mental health needs of children;
 - Address the unique physical, behavioral, emotional, social, developmental, and educational needs of children;
 - Are coordinated with the range of social and human services provided to children and their families by local school districts, social services, health and senior services, public safety, juvenile offices, and the juvenile and family courts;
 - Provide a comprehensive array of services through an integrated service plan;
 - Provide services in the least restrictive most appropriate environment that meets the needs of the child, and
 - Are appropriate to the developmental needs of children;
- Include early screening and prompt intervention to:
 - Identify and treat the mental health needs of children in the least restrictive environment appropriate to their needs; and
 - Prevent further deterioration.
 - Address the unique problems of paying for mental health services for children, including:
 - Access to private insurance coverage;
 - Public funding; and,
 - private funding and services;
 - Assure a smooth transition from child to adult mental health services when needed.

SB 539, introduced during the 2005 legislative session if signed into law by Governor Matt Blunt, will modify certain provisions dealing with various health care and social services programs. It is anticipated the two sections this act will specifically impact for child protection and foster care are:

Medicaid - Lowers the income level for parents of uninsured children in the CHIPS program that are required to pay a premium from two hundred and twenty-six percent of the federal poverty level to one hundred and fifty-one percent of the federal poverty level (Section 208.640).

Adoption Subsidy – The sections dealing with adoption subsidy rates now provide that the subsidy shall only be granted to children who reside in a household with an income that does not exceed two hundred percent of the federal poverty level or are eligible for Title IV-E adoption assistance (Section 453.073).